

AMENDMENT NO. _____ Calendar No. _____

Purpose: To ensure that children do not lose their private insurance and that uninsured children can get access to private insurance.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

H. R. 2

To amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COBURN to
the amendment (No. _____) proposed by
_____.

Viz:

1 On page 153, between lines 3 and 4, insert the fol-
2 lowing:

3 (c) REQUIRED OFFERING OF PREMIUM ASSISTANCE
4 FOR COVERAGE OF CHILDREN THROUGH PRIVATE PLANS
5 UNDER SCHIP AND MEDICAID IF THE STATE EXPANDS
6 THEIR PROGRAM BEYOND CURRENT ELIGIBILITY LEV-
7 ELS.—

1 (1) IN GENERAL.—Section 2105(c) (42 U.S.C.
2 1397ee(c)), as amended by section 601, is amended
3 by adding at the end the following:

4 “(12) REQUIRED OFFERING OF PREMIUM AS-
5 SISTANCE.—

6 “(A) IN GENERAL.—Notwithstanding any
7 other provision of this title, the child health as-
8 sistance provided to any child whose family in-
9 come exceeds the income eligibility level in ef-
10 fect under the State children’s plan as of Janu-
11 ary 1, 2009, shall consist of a State premium
12 assistance subsidy (as defined in subparagraph
13 (C)) for qualified coverage (as defined in sub-
14 paragraph (B)) in accordance with the require-
15 ments of this paragraph.

16 “(B) QUALIFIED COVERAGE.—In this
17 paragraph, the term ‘qualified coverage’ means
18 the following:

19 “(i) QUALIFIED EMPLOYER SPON-
20 SORED COVERAGE.—

21 “(I) IN GENERAL.—A group
22 health plan or health insurance cov-
23 erage offered through an employer
24 that is—

1 “(aa) substantially equiva-
2 lent to the benefits coverage in a
3 benchmark benefit package de-
4 scribed in section 2103(b) or
5 benchmark-equivalent coverage
6 that meets the requirements of
7 section 2103(a)(2);

8 “(bb) made similarly avail-
9 able to all of the employer’s em-
10 ployees and for which the em-
11 ployer makes a contribution to
12 the premium that is not less for
13 employees receiving a premium
14 assistance subsidy under any op-
15 tion available under the State
16 child health plan under this title
17 or the State plan under title XIX
18 to provide such assistance than
19 the employer contribution pro-
20 vided for all other employees; and

21 “(cc) cost-effective, as deter-
22 mined under subclause (II).

23 “(II) COST-EFFECTIVENESS.—A
24 group health plan or health insurance
25 coverage offered through an employer

1 shall be considered to be cost-effective
2 if—

3 “(aa) the marginal premium
4 cost to purchase family coverage
5 through the employer is less than
6 the State cost of providing child
7 health assistance through the
8 State child health plan for all the
9 children in the family who are
10 targeted low-income children; or

11 “(bb) the marginal premium
12 cost between individual coverage
13 and purchasing family coverage
14 through the employer is not
15 greater than 175 percent of the
16 cost to the State to provide child
17 health assistance through the
18 State child health plan for a tar-
19 geted low-income child.

20 “(ii) QUALIFIED NON-GROUP COV-
21 ERAGE.—Health insurance coverage of-
22 fered to individuals in the non-group
23 health insurance market that is substan-
24 tially equivalent to the benefits coverage in
25 a benchmark benefit package described in

1 section 2103(b) or benchmark-equivalent
2 coverage that meets the requirements of
3 section 2103(a)(2).

4 “(iii) HIGH DEDUCTIBLE HEALTH
5 PLAN.—A high deductible health plan (as
6 defined in section 223(c)(2) of the Internal
7 Revenue Code of 1986) purchased through
8 a health savings account (as defined under
9 section 223(d) of such Code).

10 “(C) PREMIUM ASSISTANCE SUBSIDY.—

11 “(i) IN GENERAL.—In this paragraph,
12 the term ‘premium assistance subsidy’
13 means, with respect to a targeted low-in-
14 come child, the amount equal to the dif-
15 ference between the employee contribution
16 required for enrollment only of the em-
17 ployee under qualified employer sponsored
18 coverage and the employee contribution re-
19 quired for enrollment of the employee and
20 the child in such coverage, less any appli-
21 cable premium cost-sharing applied under
22 the State child health plan, subject to the
23 annual aggregate cost-sharing limit applied
24 under section 2103(e)(3)(B).

1 “(ii) STATE PAYMENT OPTION.—Sub-
2 ject to clause (iii), a State may provide a
3 premium assistance subsidy directly to an
4 employer or as reimbursement to an em-
5 ployee for out-of-pocket expenditures.

6 “(iii) REQUIREMENT FOR DIRECT
7 PAYMENT TO EMPLOYEE.—A State shall
8 not pay a premium assistance subsidy di-
9 rectly to the employee, unless the State has
10 established procedures to ensure that the
11 targeted low-income child on whose behalf
12 such payments are made are actually en-
13 rolled in the qualified employer sponsored
14 coverage.

15 “(iv) TREATMENT AS CHILD HEALTH
16 ASSISTANCE.—Expenditures for the provi-
17 sion of premium assistance subsidies shall
18 be considered child health assistance de-
19 scribed in paragraph (1)(C) of subsection
20 (a) for purposes of making payments
21 under that subsection.

22 “(v) STATE OPTION TO REQUIRE AC-
23 CEPTANCE OF SUBSIDY.—A State may
24 condition the provision of child health as-
25 sistance under the State child health plan

1 for a targeted low-income child on the re-
2 ceipt of a premium assistance subsidy for
3 enrollment in qualified employer sponsored
4 coverage if the State determines the provi-
5 sion of such a subsidy to be more cost-ef-
6 fective in accordance with subparagraph
7 (B)(ii).

8 “(vi) NOT TREATED AS INCOME.—
9 Notwithstanding any other provision of
10 law, a premium assistance subsidy pro-
11 vided in accordance with this paragraph
12 shall not be treated as income to the child
13 or the parent of the child for whom such
14 subsidy is provided.

15 “(D) NO REQUIREMENT TO PROVIDE SUP-
16 PLEMENTAL COVERAGE FOR BENEFITS AND AD-
17 DITIONAL COST-SHARING PROTECTION PRO-
18 VIDED UNDER THE STATE CHILD HEALTH
19 PLAN.—

20 “(i) IN GENERAL.—A State that
21 elects the option to provide a premium as-
22 sistance subsidy under this paragraph shall
23 not be required to provide a targeted low-
24 income child enrolled in qualified employer
25 sponsored coverage with supplemental cov-

1 erage for items or services that are not
2 covered, or are only partially covered,
3 under the qualified employer sponsored
4 coverage or cost-sharing protection other
5 than the protection required under section
6 2103(e)(3)(B).

7 “(ii) NOTICE OF COST-SHARING RE-
8 QUIREMENTS.—A State shall provide a tar-
9 geted low-income child or the parent of
10 such a child (as appropriate) who is pro-
11 vided with a premium assistance subsidy in
12 accordance with this paragraph with notice
13 of the cost-sharing requirements and limi-
14 tations imposed under the qualified em-
15 ployer sponsored coverage in which the
16 child is enrolled upon the enrollment of the
17 child in such coverage and annually there-
18 after.

19 “(iii) RECORD KEEPING REQUIRE-
20 MENTS.—A State may require a parent of
21 a targeted low-income child that is enrolled
22 in qualified employer-sponsored coverage to
23 bear the responsibility for keeping track of
24 out-of-pocket expenditures incurred for
25 cost-sharing imposed under such coverage

1 and to notify the State when the limit on
2 such expenditures imposed under section
3 2103(e)(3)(B) has been reached for a year
4 from the effective date of enrollment for
5 such year.

6 “(iv) STATE OPTION FOR REIMBURSE-
7 MENT.—A State may retroactively reim-
8 burse a parent of a targeted low-income
9 child for out-of-pocket expenditures in-
10 curred after reaching the 5 percent cost-
11 sharing limitation imposed under section
12 2103(e)(3)(B) for a year.

13 “(E) 6-MONTH WAITING PERIOD RE-
14 QUIRED.—A State shall impose at least a 6-
15 month waiting period from the time an indi-
16 vidual is enrolled in private health insurance
17 prior to the provision of a premium assistance
18 subsidy for a targeted low-income child in ac-
19 cordance with this paragraph.

20 “(F) NON APPLICATION OF WAITING PE-
21 RIOD FOR ENROLLMENT IN THE STATE MED-
22 ICAID PLAN OR THE STATE CHILD HEALTH
23 PLAN.—A targeted low-income child provided a
24 premium assistance subsidy in accordance with
25 this paragraph who loses eligibility for such

1 subsidy shall not be treated as having been en-
2 rolled in private health insurance coverage for
3 purposes of applying any waiting period im-
4 posed under the State child health plan or the
5 State plan under title XIX for the enrollment of
6 the child under such plan.

7 “(G) ASSURANCE OF SPECIAL ENROLL-
8 MENT PERIOD UNDER GROUP HEALTH PLANS
9 IN CASE OF ELIGIBILITY FOR PREMIUM SUB-
10 SIDY ASSISTANCE.—No payment shall be made
11 under subsection (a) for amounts expended for
12 the provision of premium assistance subsidies
13 under this paragraph unless a State provides
14 assurances to the Secretary that the State has
15 in effect laws requiring a group health plan, a
16 health insurance issuer offering group health
17 insurance coverage in connection with a group
18 health plan, and a self-funded health plan, to
19 permit an employee who is eligible, but not en-
20 rolled, for coverage under the terms of the plan
21 (or a child of such an employee if the child is
22 eligible, but not enrolled, for coverage under
23 such terms) to enroll for coverage under the
24 terms of the plan if the employee’s child be-

1 comes eligible for a premium assistance subsidy
2 under this paragraph.

3 “(H) NO EFFECT ON PREVIOUSLY AP-
4 PROVED PREMIUM ASSISTANCE PROGRAMS.—
5 Nothing in this paragraph shall be construed as
6 limiting the authority of a State to offer pre-
7 mium assistance under section 1906, a waiver
8 described in paragraph (2)(B) or (3), a waiver
9 approved under section 1115, or other authority
10 in effect on February 1, 2009.

11 “(I) NOTICE OF AVAILABILITY.—A State
12 shall—

13 “(i) include on any application or en-
14 rollment form for child health assistance a
15 notice of the availability of premium assist-
16 ance subsidies for the enrollment of tar-
17 geted low-income children in qualified em-
18 ployer sponsored coverage;

19 “(ii) provide, as part of the applica-
20 tion and enrollment process under the
21 State child health plan, information de-
22 scribing the availability of such subsidies
23 and how to elect to obtain such a subsidy;
24 and

1 “(iii) establish such other procedures
2 as the State determines necessary to en-
3 sure that parents are informed of the
4 availability of such subsidies under the
5 State child health plan.”.

6 (2) APPLICATION TO MEDICAID.—Section 1906
7 (42 U.S.C. 1396e) is amended by inserting after
8 subsection (c) the following:

9 “(d) The provisions of section 2105(c)(12) shall apply
10 to a child who is eligible for medical assistance under the
11 State plan in the same manner as such provisions apply
12 to a targeted low-income child under a State child health
13 plan under title XXI. Section 1902(a)(34) shall not apply
14 to a child who is provided a premium assistance subsidy
15 under the State plan in accordance with the preceding sen-
16 tence.”.